

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

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|-----------------------------|---|-------------------|
| KENNETH HATCHETT, # 108243, |) | |
| |) | |
| Petitioner, |) | |
| |) | Civil Action No. |
| v. |) | 2:22cv104-WHA-SMD |
| |) | (WO) |
| JEFFERY BALDWIN, et al., |) | |
| |) | |
| Respondents. |) | |

RECOMMENDATION OF THE MAGISTRATE JUDGE

Around February 28, 2022, Petitioner Kenneth Hatchett, an Alabama inmate at the Frank Lee Youth Center, filed a habeas petition with this Court challenging his robbery conviction and life sentence imposed in 1992 by the Circuit Court of Montgomery County. Doc. 1. Hatchett neither submitted the \$5.00 filing fee nor applied to proceed in forma pauperis (“IFP”). On March 3, 2022, this Court entered an order directing Hatchett to either submit the \$5.00 filing fee by March 22, 2022, or submit a properly completed IFP application by the same date. Doc. 2. The Court advised Hatchett that his IFP application had to be accompanied by a prison account statement from the account clerk at the Frank Lee Youth Center, with the account clerk’s certified statement of the balance in Hatchett’s prison account when he filed his petition. *Id.* at 1–2. The Court specifically cautioned Hatchett that his failure to comply with its order would result in a recommendation that his case be dismissed. *Id.* at 2.

The requisite time for Hatchett to comply with the Court’s Order of March 3, 2022, has passed without Hatchett submitting either the \$5.00 filing fee or a properly completed

IFP application accompanied by his prison account statement from the account clerk at the Frank Lee Youth Center. Consequently, the Court concludes that dismissal of this action without prejudice is appropriate. *See Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) (holding that, generally, where a litigant has been forewarned, dismissal for failure to obey a court order is not an abuse of discretion).

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED WITHOUT PREJUDICE because Hatchett has failed to comply with the Court's order that he either submit the \$5.00 filing fee or a properly completed IFP application accompanied by his prison account statement from the account clerk at the Frank Lee Youth Center.

It is further

ORDERED that the parties shall file any objections to this Recommendation by **April 20, 2022**. A party must specifically identify the factual findings and legal conclusions in the Recommendation to which objection is made; frivolous, conclusive, or general objections will not be considered. Failure to file written objections to the Magistrate Judge's findings and recommendations under 28 U.S.C. § 636(b)(1) shall bar a party from a de novo determination by the District Court of legal and factual issues covered in the Recommendation and waives the right of the party to challenge on appeal the District Court's order based on unobjected-to factual and legal conclusions accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982); 11TH CIR. R. 3-1. *See Stein v. Lanning*

Securities, Inc., 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (en banc).

DONE this 6th day of April, 2022.

/s/ Stephen M. Doyle
STEPHEN M. DOYLE
CHIEF U.S. MAGISTRATE JUDGE